

WHAT HAPPENED TO KENNEDY'S BRAIN?

The following is from Volume VII of the HOUSE SELECT COMMITTEE ON ASSASSINATIONS.

PART III. SUBSEQUENT HISTORY OF MATERIALS

(114) On April 22, 1965, then Senator Robert F. Kennedy sent a letter to Dr. Burkley directing him to transfer in person the autopsy material being kept at the White House to Mrs. Evelyn Lincoln, the personal secretary of President Kennedy, for safekeeping at the National Archives. The letter also said that Mrs. Lincoln was being instructed that the material was not to be released to anyone without Robert Kennedy's written permission and approval. This demonstrates Robert Kennedy's firm control over the disposition of the materials.

(115) In response to this directive, Dr. Burkley notified the Protective Research Division of Senator Kennedy's request. Before transferring the material, Bouck, Burkley and other Secret Service personnel carefully inventoried all the items present. This was the first official inventory of these materials.

(116) On April 26, 1965, Burkley and Bouck transferred the materials to Evelyn Lincoln. A letter from Burkley to Lincoln documenting the exchange included the inventory, which documented that a stainless steel container 7 by 8 inches in diameter, containing gross material was transferred. On the last page of the inventory, Lincoln wrote: "Received, April 26, 1965, in room 409, National Archives, Washington, D.C., from Dr. Burkley and Robert Bouck." At the time of the transfer, the items now missing, which are those enumerated under item No. 9 of the inventory, were allegedly present.

(117) In his testimony before the committee, Bouck stated that he is quite positive all the autopsy-related material that came into his possession was given to Mrs. Lincoln at the time of the 1965 transfer. He also stated that he was uncertain whether Dr. Burkley had custody of the brain, but that if the brain was part of the autopsy materials in the custody of the Secret Service, it was transported to the National Archives.

(118) Dr. Burkley clarified this issue, saying that the

stainless steel container mentioned in the inventory held the brain and that he saw the bucket in April 1965, when he and Bouck transferred the autopsy materials to Lincoln. Since this transfer, Dr. Burkley maintains that he has had no further knowledge of or association with these materials.

(119) Mrs. Lincoln was not an employee of the National Archives during this period; she was only assisting in the transfer of the official papers and items of President Kennedy and in this capacity occupied an office in the National Archives. Consequently, although the autopsy materials were in the confines of the building the National Archives did not have authority or responsibility for them.

(120) The next documented transaction involving the materials transferred to Mrs. Lincoln occurred on October 29, 1966, when Mr. Burke Marshall, on behalf of the executors of the John F. Kennedy estate, sent a letter to Lawson B. Knott, the Administrator of the General Services Administration, outlining an agreement for formal transfer of materials related to the autopsy to the U.S. Government.

(121) Pursuant to this agreement, which constituted a deed of gift, Burke Marshall met with various representatives of the Government on October 31, 1966, in room 6-W-3 of the National Archives to transfer formally the materials related to the autopsy. These materials were contained in a locked footlocker for which Ms. Angela Novello, the personal secretary to Robert F. Kennedy, produced a key. Others in attendance for the transfer were William H. Brewster, special assistant to the general counsel GSA, who unlocked and opened the footlocker; Harold F. Reis, executive assistant to the Attorney General Robert H. Bahruer Archivist of the United States; Herman Kahn, Assistant Archivist for Presidential libraries and James Rhoads, the Deputy Archivist of the United States. After Brewster opened the footlocker, Marshall and Novello departed.

(122) Bahmer, Reis, Rhoads, Kahn, and Brewster then removed all the material from the footlocker and inspected it. The footlocker contained a carbon copy of the letter from Robert F. Kennedy to Burkley on April 22, 1965, and the original letter from Burkley to Lincoln on April 26, 1965, which also listed on the itemized inventory list the materials present at that transfer.

(123) Upon inspection, the officials realized that the footlocker did not contain any of the material listed under item

No. 9 of the inventory. This material included:

- 1 plastic box, 9 by 6 1/2 by 1 inches, paraffin blocks of tissue sections.
- 1 plastic box containing paraffin blocks of tissue sections plus 35 slides.
- A third box containing 84 slides.
- 1 stainless steel container, 7 by 8 inches in diameter, containing gross material.
- 3 wooden boxes, each 7 by 3 1/2 by 1 1/4 inches, containing 58 slides of blood smears taken at various times during President Kennedy's lifetime.

(124) The last date these items were accounted for was the April 26, 1965 transfer of the autopsy materials to Lincoln.

(125) The committee contacted Lincoln to determine what happened to the materials in item No. 9, the missing materials, following their documented transfer to her in April 1965. She informed the committee of an interview and subsequent affidavit that Burkley and Bouck brought her some materials in the spring of 1965 that Dr. Burkley identified as being related to the autopsy of the President. She recalled that these materials arrived in a box or boxes, and that within 1 day she obtained a flat trunk or footlocker from the Archives personnel to which she transferred the materials. She added that these materials were kept in a security room in her office in the National Archives.

(126) Mrs. Lincoln stated that within approximately 1 month, Robert F. Kennedy telephoned her and informed her that he was sending Angela Novello, his personal secretary, to move the footlocker that Dr. Burkley had transferred. She believed they wanted the materials moved to another part of the Archives, presumably where Robert F. Kennedy was storing other materials. Angela Novello soon came to her office with Herman Kahn, Assistant Archivist for Presidential Libraries, and one or more of his deputies, to take the trunk. Lincoln believes she had Novello sign a receipt for the materials, which was Lincoln's routine practice, but she is uncertain where it would be today. Lincoln also said that she gave Novello both keys to the trunk. She added that the trunk was never opened while it was in her office.

(127) Lincoln had no further direct contact with the material, but did state that after the assassination of Robert Kennedy, she began to wonder what happened to it. Consequently, she contacted Kenneth O'Donnell, former aide to President Kennedy,

to make sure the family was aware of its existence. Mrs. Lincoln said it was her understanding that Mr. O'Donnell then called Senator Edward Kennedy, subsequently calling her back to tell her everything was under control.

(128) Because of Lincoln's statement and other reports that Novello produced the key to the footlocker in December 1966, the committee interviewed Novello and also obtained an affidavit. She informed the committee that she had no recollection of handling a footlocker, of possessing a key or keys to such a footlocker, or of handling any of the autopsy materials.

(129) The committee also contacted Burke Marshall and Senator Edward Kennedy to determine their knowledge of the missing materials. Senator Kennedy indicated that he did not know what happened to the materials, or who last had custody of them.

(130) While Burke Marshall also maintained that he had no actual knowledge of the disposition of the materials, he said it was his speculative opinion that Robert Kennedy obtained and disposed of these materials himself, without informing anyone else. Marshall said Robert Kennedy was concerned that these materials would be placed on public display in future years in an institution such as the Smithsonian and wished to dispose of them to eliminate such a possibility. Marshall emphasized that he does not believe anyone other than Robert Kennedy would have known what happened to the materials and is certain that obtaining or locating these materials is no longer possible.

(131) Since Marshall offered the opinion without any verification, the committee continued to search for the missing materials and to examine any issue related to the autopsy materials in general. The committee interviewed Harold F. Reis, Executive Assistant to the Attorney General who attended the 1966 transfer of the autopsy materials to the National Archives, as well as Ramsey Clark, the Attorney General in 1966, to determine their knowledge of the missing materials. Clark stated that he initiated the action to acquire the materials transferred in the October 1966 deed of gift pursuant to Public Law 89-318, enacted on November 2, 1965. This law provided that the acquisition by the United States of certain items of evidence pertaining to the assassination of President Kennedy had to be completed within the year. When Clark learned the time limit for obtaining the evidence was approaching, he contacted Robert Kennedy, who was not sympathetic to the Government's need to acquire the autopsy material. Rather heated negotiations ensued between Clark and

Burke Marshall, the Kennedy family representative, which resulted in the October 29, 1966 agreement constituting the deed of gift. Clark stated that he had only requested transfer of the autopsy photographs and X-rays and did not recall any discussions with Robert Kennedy about any other autopsy materials. Consequently, the brain and the tissue segments were not an issue in the procedures and negotiations during the October 1966 transfer. The committee could not ascertain if the physical specimens were ever discussed in the negotiations, what type of approval Robert Kennedy gave for transforming the materials, or what procedure was employed to separate the photographs and X-rays from the material now missing.

(132) The next reference to the missing materials and the other autopsy materials in the custody of the National Archives occurred in 1968. Ramsey Clark, the Attorney. General, arranged for an independent review of the autopsy evidence by a group of pathologists-commonly referred to as the Clark panel--as a result of growing skepticism concerning the assassination and Warren Commission investigation. In a memorandum to the files on February 13,1969, Thomas J. Kelley, the Assistant Director of the Secret Service, reflected on the report of the Clark panel, in which the physicians had commented that the materials they reviewed were included on the inventory list that accompanied the letter from Burkley to Lincoln on April 26, 1965. Kelley asserted that this reference to the autopsy materials by the Clark panel physicians was phrased in this manner because the doctors did not have access to the materials listed as comprising item No. 9 on the inventory list. The memorandum also noted that after discovering in October 1966 that these items were missing, Archives personnel conducted a careful search but could not determine their location.

(133) After discussing the "missing" materials with Harry R. Van Cleve, Jr., General Counsel to the General Services Administration, and agreeing that they should attempt to ascertain their disposition, Kelley said he would contact Dr. Burkley. Kelley's memorandum related the following:

[T]hat after turning all of this material over to Mrs. Lincoln [on April 26] [Burkley] never saw nor heard anything about its disposition, and that he was surprised to hear that it was not with the remainder of the material he turned over to Mrs. Lincoln. After discussing the problem, Dr. Burkley offered to call Mrs. Lincoln. He did this in my presence and Mrs.

Lincoln told him that all of the material he turned over to her was placed in a trunk or footlocker; that it was locked, and that to her knowledge it was never opened nor the contents disturbed by her. She said, however, that sometime after its receipt all of the material concerning the assassination, with which she was working, was turned over to Angie Novello, Robert Kennedy's secretary.

(134) The memorandum further related that Dr. Burkley told Kelley that Henry Giordano, a former White House driver, was working with Lincoln at the time of the transfer and was then employed in Senator Kennedy's office.

(135) After contacting Van Cleve again and advising him of the contact with Burkley, Kelley related the following:

I * * * further advised him that, in my opinion, we should not contact Giordano. He agreed with this and stated he felt that the inquiry would have to remain as it now stands; that perhaps we were borrowing trouble in exploring it any further, and assured me that the Archivist had made a thorough search of all of the material on hand to make sure that the material in question had not been received by the Archivist at another time or under other circumstances.

(136) Thus, the General Services Administration, which oversees the National Archives, decided not to pursue the search for the missing materials any further. The officials involved were apparently satisfied with knowing that the National Archives did not have any responsibility in their disappearance and did not wish to instigate trouble by pursuing any investigation.

(137) In 1971, a controversy, not directly involving the missing materials, arose over the chain of custody of the autopsy materials being stored in the National Archives and who should have access to them. John Nichols, a pathologist, began court proceedings in the Federal courts, challenging the agreement of October 29, 1966, which contains several restrictions limiting public access to the autopsy materials. An issue raised by the suit was whether the Kennedy family ever had any legal right to control the autopsy materials at any time and, consequently, whether any deed of gift from the family which contained restrictions limiting public access could be valid.

(138) Both the Federal District Court and the Tenth Circuit Court of Appeals upheld the agreement. The Court of appeals stated that the "letter of agreement of October 29, 1966 is a valid, binding agreement and that the restrictions imposed thereby are reasonable."

(139) The legal department of the Congressional Research Service analyzed the Nichols case for the committee. The CRS noted that while the "Nichols decision represents only the determination of one circuit until the question is addressed elsewhere it would seem to represent 'the state of the law?'" The CRS stated that until the April 1965 transfer, the autopsy materials were "in Government hands with no intervening transfer of like having occurred." It then observed:

At this point, however, as suggested in the November 4, 1966, Treasury Department memorandum * *

* the transfer to the Kennedy family may have been interpreted by some as indication of U.S. recognition of Kennedy family rights in the items so transferred. At some point thereafter, either upon delivery to the Archives in 1965 or upon acceptance of the letter of gift of October 1966, the materials may be regarded as having been either (1) returned to their rightful owner, the United States Government, or (2) donated by properly executed deed of gift to the United States, thereby resulting in relinquishment of Kennedy family rights in them.

(140) The CRS ended by saying that two conclusions are irrefutable. First, the autopsy photographs and X-rays are now the property of the United States; and second, the letter of agreement between the Government and the Kennedy family remains enforceable.

(141) The committee also interviewed Archives personnel to ascertain their present position regarding the missing materials. In response to committee requests, Trudy H. Peterson, Assistant to the Deputy Archivist of the United States, prepared a written statement. In this document, Peterson noted that just prior to the October 1966 transfer of the materials to the Archives, the locked footlocker was brought to the National Archives building, although she does not specify from where. This suggests that after Novello allegedly took the material from the office of Mrs. Lincoln, it may have been moved from the Archives building as opposed to only being moved to another part of the building as

Mrs. Lincoln speculated.) Peterson also says that Robert Bahmer, the Archivist of the United States in 1966, believed that sometime before the transfer of the materials as a gift, Herman Kahn, the Assistant Archivist for Presidential Libraries supervised the acceptance of the footlocker, along with several other boxes of Robert Kennedy's materials, for courtesy storage in vault 6-W-3. Peterson further stated that Herman Kahn, now dead, may have been the only Archives employee present for the transfer and that no record of delivery is available.

(142) In response to a subsequent committee inquiry concerning Herman Kahn, Peterson stated that Kahn dealt with members and representatives of the Kennedy family during 1964-68 on numerous issues, including the courtesy storage of Robert Kennedy materials. He was present for the October 1966 transfer and, according to Marion Johnson of the National Archives, was one of the original holders of the combination to the safe cabinet in which the autopsy material was stored. Kahn also allegedly accompanied Novello when Novello apparently removed the autopsy materials from the office of Lincoln.

(143) In response to another committee request, the Office of Presidential Libraries conducted a thorough but unsuccessful search of the office files for 1965-66 for documentation regarding the transfer of the autopsy materials to the physical custody of the Archives. Additionally, two members of the Presidential Libraries staff who worked under Herman Kahn at that time stated in interviews and affidavits that they could not recall any pertinent details concerning the autopsy materials. The staff of the John F. Kennedy Library also reviewed their files, with negative results. Further, one Archives employee, Marion Johnson, Archivist, Office of the National Archives, National Archives and Records Service, remembered that he became aware of the footlocker containing the autopsy materials shortly before the October 31, 1966 transfer, but was not aware of its contents until after the transfer. Additionally, at the request of the committee, on July 18, 1978, Clarence Lyons and Trudy Peterson conducted a thorough but unsuccessful search of the security storage vault for the tissue sections and the container of gross material.

(144) Given these efforts and findings, it appears that Kahn and Novello removed the autopsy material from the office of Mrs. Lincoln shortly after April 1965. The material was then either kept in another part of the Archives, probably a Robert Kennedy courtesy storage area, or removed from the building to a location designated by Robert Kennedy. The circumstantial evidence

would seem to indicate that Robert Kennedy then decided to retain possession of all physical specimen evidence and transferred only the autopsy photographs and X-rays to the Government. The committee has not been able to verify how or when the item No. 9 materials were removed from the other autopsy materials or what subsequently happened to them.

PART IV. ADDITIONAL EFFORTS TO ACQUIRE THE MISSING MATERIALS

(145) After failing to determine the fate of the missing materials by tracing that chain of custody, the committee investigated the possibility that someone had placed the missing autopsy items all of which were physical specimens taken from the body of President Kennedy, in the final grave on reinterment, on March 14, 1967. The persons contacted who were present for the ceremony could not recall any additional package or material being placed in the grave. The Superintendent of Arlington National Cemetery from 1951 to 1972 John Metzler, informed the committee that he attended the burial of the President and the reinterment. At the time of burial, the coffin was placed in a "Wilbur" vault, which has a lid and vault that operate on a tongue and groove system. Tar is placed on the points of contact of the grooves to insure a tight fit and permanent seal. Metzler witnessed the lowering of the lid and the sealing of the vault, and believed that the only method to open the vault subsequently would be to break the lid on the main portion of the vault.

(146) Metzler supervised the reinterment in 1967 and was present at all phases of the transfer: from the opening of the old site through the transfer by crane of the vault to the closing of the new site Metzler said there was no way anyone could have placed anything in the coffin or vault during the transfer without his seeing it. Metzler also said that nothing could have been placed in the vault since 1963 because there was no indication of damage to the vault indicating any disturbance. Metzler stated further that no one placed anything in the new or old gravesite besides the vault.

(147) In the course of its investigation the committee contacted numerous other people in an unsuccessful attempt to locate the missing materials. They included:

1. Dr. James J. Humes, autopsy pathologist;
2. George Dalton, former White House aide and assistant to Mrs. Lincoln at the National Archives;
3. Edith Duncan, administrative assistant to Robert Bouck,

Protective Research Section, Secret Service;

4. Joseph D. Giordano, former White House aide and assistant to Mrs. Lincoln at the National Archives;
5. Frank Mankiewicz, former assistant to Robert F. Kennedy;
6. Harry Van Cleve, former General Counsel of the General Services Administration;
7. Lawrence O'Brien, former aide to President Kennedy;
8. David Powers, former aide to President Kennedy;
9. Ken Fienberg, aide to Senator Edward Kennedy;
10. P.J. Costanzo, Superintendent of Arlington National Cemetery;
11. Dr. James Boswell, autopsy pathologist;
12. Dr. Pierre Finck, autopsy pathologist;
13. Adm. George Galloway, commanding officer of the National Naval Medical Center in 1963;
14. Capt. John H. Stover, commanding officer of the U.S. Naval Medical School in 1963;
15. Bruce Bromley, former Justice Department attorney who was called briefly from private practice to serve as counsel to the Clark panel;
16. Carl Eardley, former Justice Department official;
17. Harold Reis, former Justice Department official;
18. Sol Lindenbaum, former Justice Department official;
19. National Archives personnel; and
20. Thomas J. Kelley, Assistant Director of the U.S. Secret Service.

PART V. CONCLUSIONS

(148) Despite these efforts, the committee was not able to determine precisely what happened to the missing materials. The evidence indicates that the materials were not buried with the body at reinterment. It seems apparent that Angela Novello did remove the footlocker containing the materials from the office of Mrs. Lincoln at the direction of Robert Kennedy, and that Herman Kahn had knowledge of this transaction. After the removal from Lincoln's office, Robert Kennedy most likely acquired possession of or at least personal control over these materials. Burke Marshall's opinion that Robert Kennedy obtained and disposed of these items himself to prevent any future public display supports this theory.

(149) There are least two possible reasons why Robert Kennedy would not have retained the autopsy photographs and X-rays. First, the only materials retained were physical specimens from the body of his brother: Tissue sections, blood

smear slides, and the container of gross material. He may have understandably felt more strongly about preventing the misuse of these physical materials than the photographs and X-rays. Second, the Justice Department under Ramsey Clark pushed hard to acquire the photographs and X-rays but did not request the physical materials. Even if Robert Kennedy had wished to prevent the release of all the autopsy materials, he was not in a position to do so when confronted with Justice Department demands.

(150) Consequently, although the committee has not been able to uncover any direct evidence of the fate of the missing materials, circumstantial evidence tends to show that Robert Kennedy either destroyed these materials or otherwise rendered them inaccessible.

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